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EXAMINER	
BEKERMANN, MICHAEL	
ART UNIT	PAPER NUMBER
3622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/885,958

Applicant(s)

YOKOGAWA, KAZUYUKI

Examiner

Michael Bekerman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 20, 30, and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Claims 20, 30, and 40 recite the limitation "according to said history points". There is insufficient antecedent basis for this limitation in the claim. The claims from which these claims depend make no mention of history points.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. **Claims 11, 13-15, 17, 18, 21, 23-25, 27 28, 31, 33-35, 37, 38, and 41-46 are rejected under 35 U.S.C. 102(a)/(e) as anticipated by Kiraly et al. (U.S. Patent No. 6,088,731, herein "Kiraly").**

5. Beginning with **Claims 11, 21, 31 and 41-46**, Kiraly teaches identifying a user using the client computer based on data received from the client computer (FIGURE 11 and Col. 12, l. 39 – Col. 13, l. 36, user visits web site and authorization phase), providing the user with a service according to a request from the user (Col. 2, l. 64 – Col. 3, l. 4 and Col. 13, l. 44-47), storing a history of services provided to the user (Col. 2, l. 64 – Col. 3, l. 4 and Col. 5, l. 57 – Col. 6 – l. 5), preparing data representing the virtual character changeable in figure based on the history of services provided, and sending the data representing the virtual character having its figure changed based on the history of services provided to the user identified in the step of identifying the user (Col. 5, l. 63-67, "information thus detected and collected is presented to the user... by way of changing the shape..."), to the client computer (computer system 112) used by the identified user.

6. With regard to the step of identifying, it is noted that a user visiting a web site inherently requires data to be sent from the client and for the web site data to be routed specifically to the user, thereby identifying the user. Kiraly's authorization phase further identifies the user by restricting services to only certain web sites authorized to operate with the particular user's intelligent agent. With regard to the step of providing the user with a service, in addition to providing regular web site data to a user (browsing), Kiraly also teaches the service of presenting "information of interest" to a user. In Kiraly, the

intelligent agent's growing or altered knowledge base (from detecting, collecting, and presenting a user "information of interest") corresponds to Applicant's history of services as the user visits desired web sites. When the user visits a website for the first time, the amount of usage goes up and a new looking character capable of additional functions is downloaded.

7. Turning to **Claims 13, 23, and 33**, Kiraly further discloses determining a data format with which the client computer is able to output (Col. 10, l. 44 – Col. 12, l. 38, HTTP/HTML, MIME formats for communicating data), wherein the step of sending the data representing the virtual character includes the step of transforming the data representing the virtual character having its figure changed based on the history of services provided to the user identified in the step of identifying the user to the data format determined in the step of determining the data format (Col. 11, l. 37-39, "MIME encodes... and decodes..."), to send to the client computer used by the identified user.

8. Addressing now **Claims 14, 24, and 34**, Kiraly describes that the step of providing the service includes the step of providing information to the user according to a request from the user (Col. 2, l. 64 – Col. 3, l. 4 and Col. 13, l. 44-47, "information of interest"), the step of storing the history of services provided includes the step of storing the history of services provided to the user after classifying the services within the history into categories (Col. 13, l. 66 – Col. 14, l. 56, "an advisor on a variety of subjects"), and the method further including the step of generating and storing preference information of the user based on the history with the services classified into the categories (Col. 5, l. 57 – Col. 6, l. 5 and Col. 14, l. 8, "knowledge base" of the

intelligent agent). With regard to the categorization of a history of services, it is noted that the intelligent agent's ability to act as an advisor on a variety of subjects inherently requires such categorization. Additionally, Applicant's user preference information is taught by Kiraly since the intelligent agent's knowledge and capabilities follow directly from the voluntary browsing activity (and therefore, preferences) of the user.

9. Kiraly also teaches all limitations recited by Applicant's **Claims 15, 25, and 35**, including that the step of preparing the data representing the virtual character includes the step of preparing data including a plurality of virtual characters (FIGURE 3 and Col. 15, l. 52 – Col. 16, l. 4, default parrot and giraffe), that the plurality of virtual characters being changeable in figures based on the history of services provided (see rejection of Claims 1, 11, 21, and 31 above), the virtual character sending method further including the step of selecting one of the plurality of virtual characters based on the user preference information (Col. 15, l. 52 – Col. 16, l. 4, where user preference information is addressed above), and that the step of sending the data representing the virtual character includes the step of sending the data representing the virtual character selected in the step of selecting one of the virtual characters having its figure changed based on the history of services provided to the user identified in the step of identifying the user (Col. 15, l. 52 – Col. 16, l. 4, assistant changes to giraffe from default parrot), to the client computer used by the identified user. Concerning the step of selecting one of the plurality of virtual characters, it is noted that the user arriving at a toy web site teaches preference information according to which giraffe images are selected and sent to the client computer.

10. Moving now to **Claims 17, 27, and 37**, Kiraly teaches preparing data for implementation of a motion of the virtual character in the client computer, the motion being for prompting a user to access advertisement information (Col. 14, l. 8-30), and selecting a user based on the preference information stored in the step of storing the preference information and a content of the advertisement information (Col. 14, l. 8-30), wherein the step of sending the data representing the virtual character includes the step, when the user selected in the step of selecting the user is the user identified in the step of identifying the user, of sending the data representing the virtual character having its figure changed based on the history of services provided to the selected user and the data for implementation of the motion prepared in the step of preparing the data for implementation of the motion (FIGURE 11 and Col. 12, l. 39 – Col. 13, l. 36), to the client computer used by the selected user. Here, selection of a user is similar to the case of identifying a user (discussed above). In particular, a user is selected as a recipient or benefactor of the intelligent agent's activities by the user's own browsing activity/preferences (visiting an auto repair or toy company web site).

11. Addressing **Claims 18, 28, and 38**, Kiraly also discloses preparing data for implementation of a motion of the virtual character in the client computer (Col. 5, l. 67, "changing shape and movements..."), wherein the step of sending the data representing the virtual character includes the step of sending the data representing the virtual character having its figure changed based on the history of services provided to the user identified in the step of identifying the user and the data for implementation of the motion prepared in the step of preparing the data for implementation of the motion

(FIGURE 11 and Col. 12, ¶. 39 – Col. 13, ¶. 36), to the client computer used by the identified user.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 12, 19, 22, 29, 32, 39, and 47-53 are rejected under 35 U.S.C. 103(a) as unpatentable over Kiraly in view of Matsuda et al. (U.S. Patent No. 6,253,167, herein "Matsuda").**

14. Regarding **Claims 12, 19, 22, 29, 32, and 39**, although Kiraly provides actions corresponding to the history of services provided to the user, Kiraly does not explicitly teach each of the limitations recited in the noted Claims. However, Matsuda expressly teaches that the step of storing the history of services includes the step of storing the history of services provided to the user as history points that are calculated by adding up points prescribed for each kind of the services (Matsuda at Col. 11, ¶. 15 – Col. 12, ¶. 18, "growth parameter control table," "health index," "physique index"), that the virtual character is changeable in figure based on the history points (Matsuda at FIGs. 13, 15 and Col. 12, ¶. 6-10), and that the motion to be implemented in the client computer is determined according to the history points (Matsuda at Col. 12, ¶. 19-28). In Matsuda,



the history of services is reflected in the growth of the virtual pet as the user frequents the web site, where services in Matsuda are generally the provision of an online virtual pet for users. Furthermore, it would have been obvious to one skilled in the art at the time of Applicants' invention to modify Kiraly to incorporate and appropriately incorporate motion according to the incremented parameters and indices as taught by Matsuda for advantageously expressing more realistic motion to a user (Matsuda at Col. 3, l. 26-27).

15. Regarding **Claims 47-53**, Kiraly teaches the step of storing the history of services provided includes the step of storing the history of services provided to the user after classifying the services within the history into categories (Col. 13, l. 66 – Col. 14, l. 56, “an advisor on a variety of subjects”) with each of the categories having different levels (the availability of updates of new products for a particular website represents another level of knowledge) (Col. 14, l. 21-30), the step of storing a different virtual character for each level (different information sent from the website represents a different intelligent assistant), and the step of transmitting the virtual character based on a category and level (which update needs to be sent) (Col. 14, l. 21-30 and Col. 15, l. 52 – Col. 16, l. 4, assistant replaces parrot with giraffe). Kiraly doesn't specify using scoring parameters to determine which updated virtual character to send to the client. However, Matsuda expressly teaches that the step of storing the history of services includes the step of storing the history of services provided to the user as history points (scores) that are calculated by adding up points prescribed for each kind of the services (Matsuda at Col. 11, l. 15 – Col. 12, l. 18, “growth parameter control table,” “health

index," "physique index"), and that the virtual character is changeable in figure based on the history points (scores) (Matsuda at FIGs. 13, 15 and Col. 12, ¶. 6-10). In Matsuda, the history of services is reflected in the growth of the virtual pet as the user frequents the web site, where services in Matsuda are generally the provision of an online virtual pet for users. Furthermore, it would have been obvious to one skilled in the art at the time of Applicants' invention to modify Kiraly to incorporate and appropriately incorporate scoring according to the incremented parameters and indices as taught by Matsuda for advantageously expressing appropriate level of updates to a user. The score may be increased so the website can know when an update is needed and a new intelligent assistant can be sent. Webpage clickable content is a questionnaire (presenting options for a user to click is effectively asking which selection they would like to pursue), and a user making a selection is an answer.

**16. Claims 16, 26, and 36 are rejected under 35 U.S.C. 103(a) as unpatentable over Kiraly in view of Plantec et al. (U.S. Patent No. 6,826,540, herein "Plantec").**

17. Regarding Claims 16, 26, and 36, as discussed above, Kiraly discloses preparing data for implementation of a motion of the virtual character in the client computer (Kiraly at Col. 5, ¶. 67, "changing the shape and movements...") wherein the step of sending the data representing the virtual character includes the step, when the user selected in the step of selecting the user is the user identified in the step of identifying the user, of sending the data representing the virtual character having its figure changed based on the history of services provided to the selected user and the

data for implementation of the motion prepared in the step of preparing the data for implementation of the motion, to the client computer used by the selected user (Kiraly at FIGURE 11 and Col. 12, l. 39 – Col. 13, l. 36), and selecting a user based on the preference information stored in the step of storing the preference information (Kiraly at Col. 14, l. 8-30). Also, it is noted that the communication and command input of Kiraly teaches a questionnaire (Kiraly at FIGURES 3, 4, and 5C). However, Kiraly does not explicitly teach the other limitations recited in the noted Claims. Plantec expressly teaches motion for displaying a questionnaire to a user at the client computer and for sending an answer to the questionnaire input by the user back to the server computer (Plantec at Abstract), and selecting a user based on a content of the questionnaire (Plantec at Col. 26, l. 11-13, “adapting to a user’s interests during a survey”). Furthermore, it would have been obvious to one skilled in the art at the time of Applicants’ invention to modify Kiraly and Matsuda to incorporate the questionnaire motion and questionnaire input as taught by Plantec for advantageously making the survey process more natural, pleasant, and enjoyable (Plantec at Col. 20, l. 55-56).

18. **Claims 20, 30, and 40 are rejected under 35 U.S.C. 103(a) as unpatentable over Kiraly in view of Matsuda et al. (U.S. Patent No. 6,253,167, herein “Matsuda”), and further in view of Plantec et al. (U.S. Patent No. 6,826,540, herein “Plantec”).**

19. Regarding **Claims 20, 30, and 40**, as discussed above, Kiraly discloses preparing data for implementation of a motion of the virtual character in the client computer (Kiraly at Col. 5, l. 67, “changing the shape and movements...” ) wherein the

step of sending the data representing the virtual character includes the step, when the user selected in the step of selecting the user is the user identified in the step of identifying the user, of sending the data representing the virtual character having its figure changed based on the history of services provided to the selected user and the data for implementation of the motion prepared in the step of preparing the data for implementation of the motion, to the client computer used by the selected user (Kiraly at FIGURE 11 and Col. 12, ¶. 39 – Col. 13, ¶. 36), and selecting a user based on the preference information stored in the step of storing the preference information (Kiraly at Col. 14, ¶. 8-30). Also, it is noted that the communication and command input of Kiraly teaches a questionnaire (Kiraly at FIGURES 3, 4, and 5C). However, Kiraly does not explicitly teach the other limitations recited in the noted Claims. Matsuda expressly teaches that the step of storing the history of services includes the step of storing the history of services provided to the user as history points (scores) that are calculated by adding up points prescribed for each kind of the services (Matsuda at Col. 11, ¶. 15 – Col. 12, ¶. 18, “growth parameter control table,” “health index,” “physique index”), and that the virtual character is changeable in figure based on the history points (scores) (Matsuda at FIGs. 13, 15 and Col. 12, ¶. 6-10). In Matsuda, the history of services is reflected in the growth of the virtual pet as the user frequents the web site, where services in Matsuda are generally the provision of an online virtual pet for users. However, Matsuda does not explicitly teach the remaining limitations recited in the noted Claims. Plantec expressly teaches motion for displaying a questionnaire to a user at the client computer and for sending an answer to the questionnaire input by the

user back to the server computer (Plantec at Abstract), and selecting a user based on a content of the questionnaire (Plantec at Col. 26, l. 11-13, "adapting to a user's interests during a survey"). Furthermore, it would have been obvious to one skilled in the art at the time of Applicants' invention to modify Kiraly to incorporate the questionnaire motion and questionnaire input as taught by Plantec for advantageously making the survey process more natural, pleasant, and enjoyable (Plantec at Col. 20, l. 55-56).

### ***Response to Arguments***

20. Regarding the 102 and 103 rejections of the above claims, Applicant argues "Kiraly fails to disclose a server computer sending a virtual character in the form of data to a client computer through a network, the sending of the virtual character having its figure changed based on the service history of the identified user". Examiner would like to draw applicant's attention to Kiraly at Column 15, Lines 59-66. Kiraly teaches the downloading of new behavior files and new animation. Kiraly also teaches the intelligent assistant as no longer being the default parrot, but replaced by a newly downloaded Giraffe. While the user computer does store information pertaining to the intelligent assistant, the alterations in the look, behavior, and knowledge of the intelligent assistant is indicative of a new intelligent assistant being sent to the client. Examiner believes this teaching still reads on the claims and thus, the rejection still stands.

### ***Conclusion***

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bekerman whose telephone number is (571) 272-3256. The examiner can normally be reached on Monday - Friday, 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**JEFFREY D. CARLSON**  
**PRIMARY EXAMINER**